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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

EUROSESMILLAS, S.A.,

Plaintiff,

v.

PLC DIAGNOSTICS INC., et al.,

Defendants.

Case No. 17-cv-03159-MEJ

ORDER FINDING AS MOOT MOTION TO DISMISS

Re: Dkt. No. 12

10   Pending before the Court is Defendants' Motion to Dismiss. Dkt. No. 12. However, on

11   July 19, 2017, Plaintiff filed an Amended Complaint (Dkt. No. 17) and Notice of Non-Opposition

12   (Dkt. No. 18). Under Federal Rule of Civil Procedure 15, a party may amend its pleading once

13   "as a matter of course" within "21 days after service of a motion under Rule 12(b), (e), or (f)."

14   Fed. R. Civ. P. 15(a)(1)(B). Thus, as no prior amended complaints have been filed, Plaintiff could

15   file an amended complaint as a matter of course under Rule 15(a).

16   "[T]he general rule is that an amended complaint supersedes the original complaint and

17   renders it without legal effect . . . ." *Lacey v. Maricopa Cty.*, 693 F.3d 896, 927 (9th Cir. 2012)

18   (en banc). Further, "[d]ismissal of the superseded original complaint would not alter the

19   proceedings . . . as the parties would continue to litigate the merits of the claims contained in the

20   now-operative First Amended Complaint." *See Liberi v. Defend Our Freedoms Founds., Inc.*, 509

21   F. App'x 595, 596 (9th Cir. 2013) (dismissing as moot appeal of denial of an anti-SLAPP motion

22   regarding a superseded complaint). Since the pending Motion to Dismiss is based on the original

23   Complaint, the Court hereby DENIES the Motion as moot. Defendants shall file an answer or

24   other responsive pleading within 21 days from the date of this Order.

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United States District Court
Northern District of California

1   The Court advises Plaintiff that no further amendments may be made without seeking

2   leave of Court pursuant to Rule 15 and Civil Local Rule 7.

3   **IT IS SO ORDERED.**

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5   Dated: July 20, 2017

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7   MARIA-ELENA JAMES
                                                     United States Magistrate Judge

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United States District Court
Northern District of California